

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated October 9, 2008. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-3 and 6-17 are pending in the Application. Claims 4-5 are canceled herein, without prejudice. The Applicants respectfully reserve the right to reintroduce subject matter deleted herein, either at a later time during the prosecution of this application or any continuing applications. Claims 6-17 are added by this amendment.

Applicants thank the Examiner for acknowledging the claim for priority and receipt of certified copies of all the priority document(s).

In the Office Action, the drawings are objected to for not showing elements of claims 4-5. It is respectfully submitted that the cancellation of claims 4-5 renders this objection to the drawings moot. Accordingly, Applicants respectfully request withdrawal of the drawing objection.

In the Office Action, it is indicated that the specification is objected to due to grammatical errors. The Applicants have

carefully reviewed the specification and provide above corrections to the specification in accordance with the Examiner's suggestion as well as other corrections to grammatical errors noted during the careful review. It is respectfully submitted that the specification is now in proper form. Accordingly, withdrawal of the objection to the specification is respectfully requested.

In the Office Action, claims 1-5 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent Application No. 10/562,895. The Examiner indicated that a terminal disclaimer may be used to overcome this rejection. This rejection is respectfully traversed, particularly in view of the present amendments to the claims. However, it is respectfully submitted that Applicants will consider filing a terminal disclaimer, if necessary in view of any allowable claims, upon indication that the present application is otherwise allowable or includes allowable claims.

In the Office Action, claims 1-3 are rejected under 35 U.S.C. §101 as allegedly directed to non-statutory subject matter. Without agreeing with the Examiner, and to advance prosecution and expedite allowance of the present application, claims 1-3 are

amended for better clarity. It is respectfully submitted that the rejection of claims 1-3 under 35 U.S.C. §101 has been overcome and withdrawal of this rejection is respectfully requested.

Claims 4-5 are rejected under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the enablement requirement. The rejection of claims 4-5 is respectfully traversed. However, it is respectfully submitted that the cancellation of claims 4-5 renders this rejection of claims 4-5 moot. Accordingly, it is respectfully requested that this rejection under 35 U.S.C. §112, first paragraph, be withdrawn.

Claims 1-5 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 6,370,091 to Kuroda ("Kuroda"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-3 and claims 6-15 are allowable over Kuroda for at least the following reasons.

Kuroda shows a method of recording information on a multilayer (two layer) disk (see, FIGs. 3A-3C). Kuroda takes an information series such as shown in FIG. 3A and breaks it up into parts which are distributed over the two layers as shown in FIGs. 3B-3C. At the end of each part, Kuroda shows a jump instruction (see, Col. 3, lines 41-55). FIG. 4 is a diagram showing the jump destination

addresses (landing zone in terms of the claims of the pending application) indicated by the jump instructions. As is clear from Kuroda, the jump from a given part, jumps to a beginning portion of a preceding part (see, Col. 4, lines 1-45). As is clear from a review of the figures, Kuroda does not disclose or suggest that a jump and corresponding landing zone are superjacent. Further, Kuroda's information series does not correspond to a multi-session recording as is readily understood by a person of ordinary skill in the art.

It is respectfully submitted that the method of claim 1 is not anticipated or made obvious by the teachings of Kuroda. For example, Kuroda does not disclose or suggest, a method that amongst other patentable elements, comprises (illustrative emphasis added) "dividing information to be recorded in a first one of multiple sessions into a number of portions corresponding to each of the at least two information layers; recording each of the number of portions of the information to be recorded in the first one of the multiple sessions onto a corresponding one of the at least two information layers with a jump zone and a corresponding landing zone between information layers being superjacent; recording remaining ones of the multiple sessions on the record carrier " as

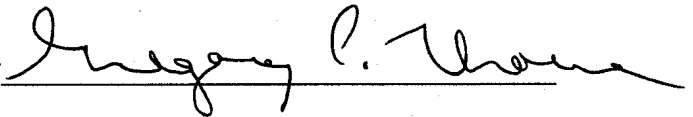
recited in claim 1.

Based on the foregoing, the Applicants respectfully submit that independent claim 1 is patentable over Kuroda and notice to this effect is earnestly solicited. Claims 2-3 and 6-17 respectively depend from claim 1 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

By 

Gregory L. Thorne, Reg. 39,398
Attorney for Applicant(s)
January 9, 2009

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101